

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSEPH BONGIOVANNI,

Defendant.

Case No. 1:19-cr-227
(LJV)

March 19, 2024

TRANSCRIPT EXCERPT - EXAMINATION OF JASON PIERINI
BEFORE THE HONORABLE LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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And

UNITED STATES DEPARTMENT OF JUSTICE

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And

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BY: PARKER ROY MacKAY, ESQ.

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For the Defendant

PRESENT:

BRIAN A. BURNS, FBI Special Agent

MARILYN K. HALLIDAY, HSI Special Agent

KAREN A. CHAMPOUX, USA Paralegal

LAW CLERK: REBECCA FABIAN IZZO, ESQ.

COURT DEPUTY CLERK: COLLEEN M. DEMMA

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* * * * *

(Excerpt commenced at 11:10 a.m.)

(Jury seated at 11:10 a.m.)

THE COURT: The record will reflect that all our
jurors, again, are present.

The government can call its next witness.

MS. CHALBECK: Thank you, Your Honor.

The government calls Jason Pierini.

J A S O N P I E R I N I, having been duly called and sworn,
testified as follows:

DIRECT EXAMINATION BY MS. CHALBECK:

Q. Good morning, Mr. Pierini. How are you doing today?

A. Good. How about yourself?

Q. I'm well, thank you. I'm just going to ask when I ask
you questions, you answer directly into the microphone
speaking slowly and clearly so that Ann can get everything

11:12AM 1 down.

11:12AM 2 What do you do for a living, sir?

11:12AM 3 A. I work for U.S. Customs and Border Protection.

11:12AM 4 Q. And how long have you been doing that?

11:12AM 5 A. A little over 15 years.

11:12AM 6 Q. And can you please describe for the jury your duties as
11:12AM 7 an officer with CBP?

11:12AM 8 A. I'm there to secure and protect the border, and to
11:12AM 9 facilitate free trade and travel.

11:12AM 10 Q. Do you work at -- or, have you ever worked at a
11:12AM 11 checkpoint along the border?

11:12AM 12 A. Yes, that's -- that was my job up until last year.

11:12AM 13 Q. What do you do currently?

11:12AM 14 A. I work for nonintrusive inspection unit. It's -- we
11:12AM 15 detect illicit cargo with the use of x-ray machines.

11:12AM 16 Q. I want to bring you back, though, to November 29th, 2012.
11:12AM 17 Were you working at what's called the Rainbow Bridge
11:12AM 18 checkpoint that day?

11:12AM 19 A. Yes.

11:12AM 20 Q. Can you just explain to the jury what the Rainbow Bridge
11:12AM 21 checkpoint is? Like, where is it?

11:12AM 22 A. It it's a border crossing in Niagara Falls, New York,
11:13AM 23 right next to the Niagara Falls landmark. And travelers
11:13AM 24 coming in from Canada or abroad, we're the first people to
11:13AM 25 interact with them and inspect them and allow them into the

1 United States if necessary.

2 Q. And were you working at the Rainbow Bridge checkpoint at
3 a station called the primary inspection station?

4 A. Yeah, primary inspection booth.

5 Q. Okay. And is that what you were just describing where
6 you're the first point of encounter for people coming into
7 the country?

8 A. Yes.

9 Q. Okay.

10 **MS. CHALBECK:** Ms. Champoux, can we please pull up
11 for the witness only Government Exhibit 3713A.

12 **BY MS. CHALBECK:**

13 Q. Mr. Pierini, can you explain to the jury what this
14 document is?

15 A. It's a vehicle encounter report. Every time I log into
16 the terminal to process passengers, one of these is
17 generated. And it logs any occupants in vehicles that I
18 process.

19 Q. Okay. So let's just walk the jury through that a little
20 bit. When you're at a primary inspection station and you
21 encounter a vehicle, what do you do?

22 A. What I do? I get a verbal declaration as far as where
23 they've been, where they're going, what their plan is in the
24 United States if they're not U.S. citizens.

25 If they're U.S. citizens, what they were doing abroad.

1 And get an idea of what they're bringing back into the
2 country, if anything.

3 Q. Okay. And do you then upload some of that information
4 into a Department of Homeland Security computer system?

5 A. That's correct. So every time you encounter an
6 individual, I get a document for these people, a travel
7 document, passport, enhanced licensed, et cetera. It's
8 swiped in our system, and it creates a record of their
9 arrival there in the United States.

10 Q. And as it relates to Government Exhibit 3713A, did you
11 encounter two individuals and get their identification
12 information and upload it to the DHS computer system?

13 A. Yes.

14 Q. Does this exhibit -- is this exhibit a fair and accurate
15 reflection of the information you uploaded?

16 A. Yes.

17 **MS. CHALBECK:** With that foundation, Your Honor, the
18 government would offer Exhibit 3713A into evidence.

19 **MR. MacKAY:** Judge, I don't think it's really
20 qualified as a business record, but we have no objection to
21 letting it in.

22 **THE COURT:** Well, I don't know that the foundation
23 has been laid for a business record. Are you objecting?

24 **MR. MacKAY:** No.

25 **THE COURT:** Okay. If there's no objection, it comes

1 in without objection.

2 (GOV Exhibit 3713A was received in evidence.)

3 THE COURT: Go ahead.

4 MS. CHALBECK: Ms. Demma, can we please publish that
5 for the jury?

6 BY MS. CHALBECK:

7 Q. Mr. Pierini, on November 29th, 2012, did you encounter a
8 vehicle containing two people: Joseph Bongiovanni and a
9 P. Francoforte?

10 A. Yes.

11 Q. Do you understand that Mr. Francoforte refers to a Paul
12 Francoforte?

13 A. Yes.

14 Q. Did you encounter these two individuals together in the
15 same vehicle?

16 A. Yes.

17 Q. Did you upload their identification information into the
18 DHS computer system?

19 A. I did, yes.

20 MS. CHALBECK: One moment, Your Honor.

21 No further questions.

22 THE COURT: Any cross?

23 MR. MacKAY: Briefly, Judge, thank you.

24 THE COURT: Sure.

25

CROSS-EXAMINATION BY MR. MacKAY:

Q. Good morning, Agent Pierini. How are you?

A. Good. How about yourself?

Q. I'm well, thanks. Slowly getting over my cold.

All right. So 3713A in evidence here, that's essentially what's generated when somebody crosses the border and the agent is typing all the stuff on their terminal, correct?

A. Yes.

Q. That's ultimately the record that's memorialized as a border crossing, correct?

A. Yes.

Q. And as you read this, and two individuals crossed the border at on November 29th, 2012 around 10:00, a little after 10:00 p.m.?

A. Yes.

Q. And it's inbound, so they're coming back, correct?

A. Yes.

Q. Do you recall this specific crossing as you sit here today?

A. I don't recall the encounter, but I know that I was the one that did it. And, like I said, there's a record generated every time I log in.

Q. Okay. You don't remember them reporting that they were coming back from seeing -- from going to a Swiss Chalet restaurant?

1 A. I don't recall the encounter.

2 Q. Do you know that we don't have Swiss Chalet restaurants
3 anymore in the United States here?

4 A. I do.

5 Q. Yeah, pretty good dipping sauce, so you gotta go to
6 Canada, correct?

7 A. As far as I know.

8 **MR. MacKAY:** Okay. Thank you, Agent Pierini.

9 I have no further questions.

10 **THE COURT:** Any redirect?

11 **MS. CHALBECK:** No, Your Honor.

12 **THE COURT:** Okay. You can step down, sir.

13 (Witness excused at 11:17 a.m.)

14 (Excerpt concluded at 11:17 a.m.)

15 * * * * *

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17 **CERTIFICATE OF REPORTER**

18

19 In accordance with 28, U.S.C., 753(b), I
20 certify that these original notes are a true and correct
21 record of proceedings in the United States District Court for
22 the Western District of New York on March 20, 2024.

23 s/ Ann M. Sawyer
24 Ann M. Sawyer, FCRR, RPR, CRR
25 Official Court Reporter
U.S.D.C., W.D.N.Y.

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MARCH 20, 2024

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E X H I B I T

P A G E

GOV Exhibit 3713A

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